

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF: )  
)  
FOUR COUNTY LANDFILL SITE )  
Delong, Indiana )  
)  
)  
Potentially Responsible Parties )  
Listed in Appendices A – C )  
)  
Settling Parties Listed in Appendices E – G )  
)  
IDEM Site No. 00000134 )  
)  
Proceeding under the )  
Environmental Management Act )  
(Indiana Code Title 13) )

**DEMINIMIS AGREED ORDER**  
**FOUR COUNTY LANDFILL SITE**  
**DELONG, INDIANA**

**I. INTRODUCTION**

1. The Indiana Department of Environmental Management ("IDEM"), by its Commissioner, having determined that a release of a hazardous substance has occurred or that the threat of a release of a hazardous substance is present at the Four County Landfill Site (the "Site") and the parties hereto being desirous of entering into this Agreed Order ("Order") for the purpose of financing a Remedial Design/Remedial Action ("RD/RA") for Operable Unit 2 ("OU2") with respect to such release or threat of release and without the need for resort to litigation, now agree to the following terms and conditions pursuant to Indiana's Hazardous Substances Response Trust Fund law ("HSRTF"), Indiana Code ("IC") 13-25-4 et seq., and consistent with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. Section 9601, et seq.

**II. JURISDICTION**

2. IDEM is the agency with the duty and authority to administer and enforce the provisions of IC 13-25-4 and is authorized to recover response costs under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 et seq., and the Indiana Hazardous Substances Response Trust Fund Law, IC 13-25-4.

3. IDEM has authority under IC 13-25-4-23 to enter into an agreement that calls for one or more

responsible parties to perform response actions. IDEM has the authority under CERCLA § 113(f)(2), 42 U.S.C. § 9613(f)(2) to enter into an administrative settlement that resolves a party's liability, if any, to the State arising under CERCLA.

4. This Order is issued to the Potentially Responsible Parties ("PRPs") identified in Appendices A – C, attached hereto, pursuant to IC 13-25-4-9 and IC 13-25-4-23 and is fair, reasonable, and in the public interest. Those PRPs that agree to the terms of this Order by returning an executed signature page to IDEM are deemed "Respondents" and are identified on Appendices E – G, which will be updated periodically as signature pages and payments are received from Respondents.

5. The Respondents agree to undertake the obligations required by the terms and conditions of this Order and, upon execution of this Order, to waive their rights to administrative review of this Order and agree not to contest the jurisdiction of IDEM to enter into this Order or to implement and enforce its terms. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings by IDEM to implement or enforce this Order, the validity of the findings of fact, conclusions of law, and determinations in Sections IV (Findings of Fact) and V (Conclusions of Law) of this Order.

6. In agreeing to the issuance of and entering into this Order, the Respondents do not admit any liability for any conditions at or caused by the Site and do not admit that there is a release or threatened release of hazardous substances from the Site. This Order shall not be deemed an admission by any Respondent as to any issue of fact or law except that Respondents admit the jurisdiction of IDEM to enter into this Order.

### **III. NOTICE OF ACTION**

7. IDEM has provided U.S. Environmental Protection Agency ("EPA") with a copy of this Order.

8. IDEM has provided the Indiana and the Federal Natural Resources Trustees with a copy of this Order.

9. By entering into this Order, the Respondents waive any notice of this action that may be required by CERCLA § 122, 42 U.S.C. § 9622, and IC 13-25-4 and IC 13-30-3.

### **IV. PARTIES BOUND**

10. This Order shall apply to and be binding upon the Respondents, and their successors and assigns, and upon IDEM and any successor departments or agencies of the State. The signatories to this Order certify that they are fully authorized to execute and legally bind the parties they represent. No change in ownership, corporate, or partnership status of any Respondent shall in any way alter the status or responsibilities of Respondents under this Order.

## V. DEFINITIONS

11. Unless otherwise expressly provided herein, terms used in this Order which are defined in IC 13-11-2 or CERCLA § 101, 42 U.S.C. § 9601, or regulations promulgated thereunder, shall have the same meaning assigned to them in the Indiana Code or CERCLA or in such regulations. Whenever terms listed below are used in this Order or in any Appendix hereto, the following definitions shall apply:

12. "Business Day" shall exclude Saturdays, Sundays and federal and state holidays. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday or federal or state holiday, the period shall run until the close of business of the next business day.

13. "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601, et seq.

14. "Day" shall mean a calendar day. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period shall run until the close of business of the next working day.

15. "Effective Date" shall mean three (3) business days from the date on which the Commissioner of IDEM signs this Order.

16. "Facility" or "Site" shall mean the Four County Landfill located in Delong, Indiana, encompassing approximately 61 acres of real property.

17. "IDEM" shall mean the Indiana Department of Environmental Management and any successor departments or agencies of the State, and is used interchangeably with the "State" in this Order.

18. "Interest" shall mean interest at the rate specified for interest on investments of the Hazardous Substances Response Trust Fund established by IC 13-25-4-1(a).

19. "National Contingency Plan" or "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan, codified at 40 C.F.R. Part 300, as amended.

20. "Order" means this order and all appendices attached hereto. In the event of conflict between this Order and any appendix, this Order shall control.

21. "Parties" shall mean IDEM and the Respondents.

22. "Past Response Costs" shall mean costs incurred by IDEM relating to the Site and not reimbursed through prior settlements as of the Effective Date of this Order.

23. "Record of Decision" or "ROD" shall mean the IDEM Record of Decision for OU2 relating to the Site executed on July 16, 2001.

24. "Respondents" shall mean those persons, corporations or other entities listed in Appendices A –

C, attached hereto, that return an executed signature page to IDEM in agreement with the terms and conditions herein.

25. "State" shall mean the State of Indiana.

26. "Trustee" shall mean the trustee for the Four County Landfill Site OU-2 Trust.

## **VI. STATEMENT OF PURPOSE**

27. By entering into this Order, the mutual objectives of IDEM and Respondents are:

- (a) to protect public health and welfare and the environment at the Site;
- (b) to reach a final settlement among the Parties with respect to the Site pursuant to IC 13-25-4-23 that allows Respondents to make a cash payment, including a premium, to resolve their alleged civil liability under IC 13-25-4-8 and CERCLA §§ 106, 107, 42 U.S.C. §§ 9606 and 9607, for injunctive relief with regard to the Site and for response costs incurred and to be incurred at or in connection with the Site, thereby reducing litigation relating to the Site;
- (c) to simplify any remaining administrative and judicial enforcement activities concerning the Site by eliminating a substantial number of PRPs from further involvement at the Site; and
- (d) to obtain settlement with Respondents for their fair share of response costs incurred and to be incurred at or in connection with the Site by IDEM's Hazardous Substance Response Trust Fund, and by the Four County Landfill OU-2 Trust, and to provide for full and complete contribution protection for Respondents with regard to the Site pursuant to IC 13-25-4-27.

## **VII. FINDINGS OF FACT**

Based upon information available upon execution of this Order, the Commissioner of IDEM makes the following findings of fact ("Findings of Fact"):

28. The Site occupies approximately 61 acres and is located 0.7 miles southwest of the town of Delong, Indiana, along County Road 525, one-quarter mile west of State Road 17. The Site is further described as located within the southwest quarter of Section 16, Township 31 North, Range 1 East. The area adjacent to the Site is rural, consisting of woods and open fields to the north and east, and woods, open pastures, and cultivated fields to the south and west. The area surrounding the Site is sparsely populated, and residents are located on scattered plots of land, including residential lots and small farms. The largest body of water nearby is Kings Lake (18 acres), located 1,300 feet to the east of the Site. The Tippecanoe River is located approximately one mile north of the Site and locally flows in a northwesterly direction.

29. Ground water is relatively shallow in the area surrounding the Site. The Site is situated on glacial upland deposits, which bisect the Site and direct surface runoff both easterly towards Kings Lake and northwesterly towards tributaries of the Tippecanoe River.
30. The scattered residences surrounding the Site, and those located hydraulically down gradient in the vicinity of the Site, obtain their drinking water from ground water.
31. The landfill began accepting domestic solid waste in 1972. In 1978, the landfill began accepting industrial wastes, some of which were classified as hazardous wastes pursuant to regulations implementing the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6901, et seq., which became effective on November 19, 1980. The landfill operated from 1980 until it was ordered to close in March of 1989 by the Federal District Court for the Northern District of Indiana. As a result of the bankruptcy of one of the Site's former operators, Environmental Waste Control, Inc. ("EWC") in 1989 and insufficient funds available to properly close the landfill, the Site remains in partial closure.
32. Prior to filing bankruptcy, EWC established a Closure and Post-Closure Care Fund (hereinafter "EWC Trust Fund for Closure/Post Closure") for the Site. The proceeds in this fund are not expected to satisfy the estimated total cost of implementing response actions at the Site.
33. Since the Site was ordered closed by the Federal court, the three lined hazardous waste disposal areas have continued to generate leachate. IDEM responded in December 1991 by conducting an ongoing removal action, which included the collection, storage, and disposal of leachate, as well as essential Site maintenance tasks (erosion control, Site security, etc.).
34. In response to a release or a substantial threat of a release of hazardous substances at or from the Site, and pursuant to 40 C.F.R. Section 300.430, a group of de maximus PRPs ("Group") conducted a Remedial Investigation and Feasibility Study ("RI/FS") in accordance with an Agreed Order entered in Cause No. OER-92, effective August 13, 1993, and have performed other Site-related tasks pursuant to that Agreed Order.
35. The Site has been divided into two operable units: Operable Unit 1 ("OU1") which provides for the consolidation of impacted materials underneath a cap and is the subject of a November 2, 1998 Agreed Order for RD/RA for OU1; and Operable Unit 2 ("OU2") which requires monitored natural attenuation ("MNA") and includes installation of a performance monitoring, assessment and sentry monitoring well network; preparation of an alternative remedial action plan (contingent remedy) and implementation of the contingent remedy, if necessary; installation of point of use filters at residences that show Site-related contaminants in their drinking water; and deed restrictions and groundwater use restrictions to address groundwater impacts.
36. By letter dated January 4, 2001, IDEM approved the RI/FS for OU2.
37. The decision by IDEM on the Remedial Action to be implemented at the Site for OU2 is embodied in a Record of Decision executed on July 16, 2001.
38. On April 3, 2002, IDEM issued a Special Notice of Potential Liability to the Group and Respondents, among other parties, seeking a commitment to finance or implement the RD/RA for OU2

and the Operation and Maintenance measures contained in the Remedial Action for OU1. On May 8, 2002, the Group submitted a Good Faith Offer in response to the Special Notice.

39. By letter dated August 22, 2002, IDEM terminated the RI/FS Agreed Order.

40. IDEM entered into an Agreed Order with the Group effective June 5, 2003 that provided for a cash payment to partially finance the RD/RA for OU2. A trust agreement, entered into on May 30, 2003, established the "Four County Landfill Site OU2 Trust Fund" to receive settlement proceeds to be retained and used to conduct or finance response actions, including enforcement activities and reimbursement of IDEM costs, at or in connection with the Site (*see* Appendix D, "Trust Agreement").

41. By letter dated July 2, 2003, IDEM terminated the RD/RA OU1 Agreed Order.

42. IDEM entered into an Agreed Order with Heritage Environmental Services, LLC, Resources Unlimited, Inc., Heritage Transport, LLC, and Asphalt Materials, Inc., effective July 27, 2004, that provided for a cash payment to partially finance the RD/RA for OU2.

43. As a result of the release or threatened release of hazardous substances, IDEM and the Trustee have undertaken response actions at or in connection with the Site under IC § 13-25-4-9 and will undertake response actions in the future.

44. In performing these response actions, IDEM and the Trustee have incurred and will continue to incur response costs at or in connection with the Site.

45. Each Respondent listed on Appendices A – C (attached) arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of a hazardous substance owned or possessed by such Respondent, by any other person or entity, at the Site, or accepted a hazardous substance for transport to the Site which was selected by such Respondent.

46. Some Respondents have participated in prior *deminimis* settlements at the Site resolving their liability for RI/FS costs for OU1 and OU2 and RD/RA costs for OU1 by entering into Agreed Orders with IDEM and the Group.

47. The amount of hazardous substances contributed to the Site by each Respondent does not exceed 0.4% of the hazardous substances at the Site and the hazardous substances contributed by each Respondent to the Site are not significantly more toxic or of significantly greater hazardous effect than other hazardous substances at the Site.

48. IDEM estimates that the present value of the total response costs incurred and to be incurred at or in connection with the Site for OU2 is \$4,737,394, not including the estimated cost of a possible contingent remedy, which is \$2,415,000. Each Respondent's payment pursuant to this Order is a minor portion of this total amount and is reflected in Appendices A - C.

### **VIII. CONCLUSIONS OF LAW**

Based upon the Findings of Fact set forth above and other information available upon execution of this Order, IDEM makes the following conclusions of law ("Conclusions of Law"):

49. The Four County Landfill Site is a "facility" as defined in CERCLA § 101(9), 42 U.S.C. § 9601(9) and for the purposes of IC 13-25-4.

50. Pollutants, contaminants, or constituents thereof at the Site include "hazardous substances" as defined in IC 13-11-2-98 and CERCLA § 101(14), 42 U.S.C. § 9601(14).

51. The Respondents are each alleged by the State to be a potentially "responsible person" as defined by IC 13-11-192(b) and a "person" as defined by CERCLA § 101(21), 42 U.S.C. § 9601(21).

52. The past, present, or potential migration of hazardous substances from the Site constitutes a "release" or "threat of release" as defined in IC 13-11-2-184(d) and CERCLA § 101(22), 42 U.S.C. § 9601(22).

53. IDEM and the Trustee have incurred, and will continue to incur, costs due to the undertaking of response actions as defined by IC 13-11-2-189 and CERCLA § 101(25), 42 U.S.C. § 9601(25) in response to the actual or threatened "release."

54. IDEM has determined that, pursuant to IC 13-25-4-10(a), it will recover the costs it incurs in relation to all response actions concerning this Site. IDEM has incurred, and will continue to incur, costs due to the undertaking of response actions at the Site as defined by IC 13-11-2-189 and CERCLA § 101(25), 42 U.S.C. § 9601(25).

55. Prompt settlement with each Respondent is in the public interest within the meaning of IC 13-25-4-23(c).

### **IX. ORDER**

56. Based upon the administrative record for the Site and the Findings of Facts and Conclusions of Law set forth above, by consent of the Parties, and in consideration of the promises and covenants set forth herein, the following is hereby AGREED TO AND ORDERED:

### **X. PAYMENT OF RESPONSE COSTS**

57. Within thirty (30) days after the Effective Date of this Order, each Respondent shall pay to the Four County Landfill Site OU2 Trust the amount set forth in Appendices A - C of this Order. Respondents may make payment under this Order prior to the Effective Date at their election. Payment shall be in the manner described in Paragraph 60 below.

58. Each Respondent's payment includes a non-refundable amount for: a) past response costs incurred at or in connection with the Site; b) projected future response costs to be incurred at or in connection with the Site, including a contingent remedy, whether triggered or not; and c) a premium to cover the risks and uncertainties associated with this settlement, including but not limited to, the risk that total response costs incurred or to be incurred at or in connection with the Site by IDEM, the Trustee, or any other person, will exceed the total estimated response costs upon which Respondents' payments are based.

59. At the time each Respondent makes its payment, Respondent shall send notice to IDEM's Project Manager in accordance with Section XVI (Notices and Submissions) that such payment has been made. Such notice shall reference the name and address of the party making payment, the Site name, and the IDEM Site Identification Number 00000134.

60. The payment set forth in Paragraph 57 shall be made by certified check or cashier's check made payable to the "Four County Landfill Site OU2 Trust". **Do not send the check to IDEM.** The check, and a transmittal letter accompanying the check, shall reference the name and address of the party making payment, the Site name, and the IDEM Site Identification Number 00000134 and shall be sent to:

Deborah E. Albright, Trustee  
Four County Landfill Site OU-2 Trust  
Monday Rodeheffer Jones & Albright  
1915 Broad Ripple Avenue  
Indianapolis, Indiana 46220

#### **XI. FAILURE TO MAKE PAYMENT**

61. If any Respondent fails to make full payment within the time required by Paragraph 57, that Respondent shall pay Interest on the unpaid balance. In addition, if any Respondent fails to make full payment as required by Paragraph 57, IDEM and the State may, in addition to any other available remedies or sanctions, bring an action against that Respondent seeking injunctive relief to compel payment and/or seeking civil penalties under IC 13-30-4 for failure to make timely payment.

#### **XII. COVENANT NOT TO SUE BY STATE**

62. In consideration of the payments that will be made by Respondents under the terms of this Order, and except as specifically provided in Section XIII (Reservation of Rights by State), IDEM and the State covenant not to sue or take administrative action against any of the Respondents or their directors, officers, shareholders, employees, agents, representatives, successors, assigns, subsidiaries or parents pursuant to any federal or Indiana law including but not limited to IC §§ 13-25-4 et seq. and 13-30-9-1 et seq., Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), and Section 7002 of RCRA, 42 U.S.C. §9672, with regard to all past, current and future response costs incurred or to be incurred at or in connection with the Site or the performance of any past, current and future response actions at or in connection with the Site. This covenant not to sue shall take effect for each Respondent



upon receipt of that Respondent's payment as required by Section X (Payment of Response Costs), but in no event earlier than the Effective Date of this Order. With respect to each Respondent, individually, this covenant not to sue is conditioned upon the satisfactory performance by Respondent of all obligations under this Order. This covenant not to sue extends only to each Respondent individually and does not extend to any other person.

### **XIII. RESERVATION OF RIGHTS BY STATE**

63. IDEM and the State reserve, and this Order is without prejudice to, all rights against Respondents with respect to all matters not expressly included within the covenant not to sue by the State in Paragraph 62. Notwithstanding any other provision of this Order, IDEM and the State reserve all rights against Respondents with respect to:

- (a) liability for failure of Respondents to meet a requirement of this Order;
- (b) criminal liability;
- (c) liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- (d) liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant at a facility other than the Site; and
- (e) liability based upon the ownership or operation of the Site, or upon the transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal of a hazardous substance or a solid waste at or in connection with the Site, after the Effective Date of this Order.

### **XIV. COVENANTS BY RESPONDENTS**

64. Respondents covenant not to sue and agree not to assert any claims or causes of action against IDEM or the State, or its contractors or employees, or the Trustee, with respect to the Site or this Order, including but not limited to:

- (a) any direct or indirect claim for reimbursement from the Indiana Hazardous Substances Response Trust Fund based on Indiana Code Sections 13-25-4-1(6) and 13-25-4-23(b) or the Hazardous Substance Superfund based on CERCLA Sections 106(b)(2), 107, 111, 112, or 113, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or the Four County Landfill OU2 Trust fund or any other provision of law; or
- (b) any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Indiana Constitution, the Tucker Act, 28

U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. §2412, as amended, or at common law; or

- (c) any claim against the State pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

Except as provided in Paragraphs 66 (Waiver of Claims) and Paragraph 70 (Waiver of Claim-Splitting Defenses), these covenants not to sue shall not apply in the event that the State brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 63(a) - (b), but only to the extent that Respondents' claims arise from the same response action or response costs that the State is seeking pursuant to the applicable reservation.

65. Nothing in this Order shall be deemed to constitute approval or preauthorization of a claim within the meaning of IC 13-25-4-23(b)(1), IC 13-25-4-1(a)(6) or Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

66. Respondents agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Site, including for contribution, against each other or any person who is a potentially responsible party at the Site. This waiver shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person if such person asserts or has asserted a claim or cause of action relating to the Site against such Respondent.

#### **XV. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION**

67. Except as provided in Paragraph 66 (Waiver of Claims), nothing in this Order shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Order. The preceding sentence shall not be construed to waive or nullify any rights that any person not a signatory to this Order may have under applicable law. Except as provided in Paragraph 66 (Waiver of Claims), IDEM and Respondents expressly reserve all rights (including, but not limited to, any right to contribution), defenses, claims, demands and causes of action which they may have with respect to any other matter, transaction, or occurrence relating in any way to the Site against any person not a party hereto.

68. Each Respondent is entitled, as of the Effective Date of this Order, to protection from contribution actions or claims as provided by IC 13-25-4-27 and Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for "matters addressed" in this Order. The "matters addressed" in this Order are all response actions taken or to be taken and all past, current and future response costs incurred or to be incurred at or in connection with the Site, by IDEM or any other person. The contribution protection herein afforded shall be as broad as permitted by applicable federal and state law.

69. Each Respondent agrees that, with respect to any suit or claim for contribution brought by it for matters related to this Order, it will notify IDEM in writing no later than sixty (60) days prior to the initiation of such suit or claim. Each Respondent also agrees that, with respect to any suit or claim brought against it for matters related to this Order, it will notify IDEM in writing within ten (10) days of service of the complaint or claim upon it. In addition, each Respondent shall notify IDEM within ten

(10) days of service or receipt of any Motion for Summary Judgment, and within ten (10) days of receipt of any order from a court setting a case for trial for matters related to this Order.

70. In any subsequent administrative or judicial proceeding initiated by the State for injunctive relief, recovery of response costs, or other relief relating to the Site, Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the State in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by the State set forth in Section XII.

## **XVI. NOTICES AND SUBMISSIONS**

71. Whenever under the terms of this Order, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below unless otherwise specified in this Order, or those individuals or successors give notice of a change to the other parties in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Order with respect to the State, IDEM, and Respondents, respectively.

### As to the State of Indiana and IDEM:

Ms. Pat Likins, Project Manager  
Indiana Department of Environmental Management  
100 N. Senate Avenue,  
Mail Code 67-19, IGCN # 1101  
Indianapolis, Indiana 46204-2251

### As to the Respondents:

The most current address and contact information on file at IDEM will be used to notify Respondents.

### As to the Four County Landfill Site OU2 Trust

Ms. Deborah E. Albright  
Four County Landfill Site OU2 Trust  
Monday Rodeheffer Jones & Albright  
1915 Broad Ripple Avenue  
Indianapolis, Indiana 46220

## **XVII. INTEGRATION/APPENDICES**

72. This Order and its appendices constitute the final, complete and exclusive agreement and understanding among the parties with respect to the settlement embodied in this Order. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Order. The following appendices are attached to and incorporated in this Order:

- (a) "Appendix A" lists the direct generators and their volumetric share and settlement offer.
- (b) "Appendix B" lists the Chem-Met generators and their volumetric share and settlement offer.
- (c) "Appendix C" lists brokers and transporters and their volumetric share and settlement offer.
- (d) "Appendix D" is the trust agreement that established the Four County Landfill Site OU2 Trust for the proceeds of this and any other settlement(s) or recoveries in connection with the Site.
- (e) "Appendix E" lists the direct generators that have settled.
- (f) "Appendix F" lists the Chem-Met generators that have settled.
- (g) "Appendix G" lists the brokers and transporters that have settled.

#### **XVIII. SIGNATORIES**

73. Each undersigned representative of a Respondent to this Order and of IDEM certifies that he or she is authorized to enter into and execute the terms and conditions of this Order and to bind legally such party to this document.

#### **XIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION**

74. The Effective Date of this Order shall be three (3) business days from the date on which this Order is signed by the Commissioner of IDEM. IDEM shall make the Order and the signature page executed by the Commissioner available for download on the internet at the following web site address:  
[www.in.gov/idem/programs/land/federal/four\\_county.html](http://www.in.gov/idem/programs/land/federal/four_county.html)  
If requested, IDEM will provide Respondent with a paper copy of the fully executed Order.

#### **XX. PRECEDENCE OF AGREED ORDER**

75. In the event that a conflict arises among the terms and conditions of this Order and those of any prior agreed order in connection with this Site and these Respondents, this Order shall govern and the terms and conditions hereunder shall determine the Parties' rights and responsibilities.

#### **XXI. COUNTERPARTS**

76. Respondents may execute this Order in counterparts, and each such counterpart shall be deemed an original of the Order.

## **XXII. TERMINATION**

77. Except for Section XII (Covenant Not to Sue by State), Section XIII (Reservation of Rights by State), Section XIV (Covenants by Respondents) and Section XV (Effect of Settlement/Contribution Protection) which shall remain effective as set forth herein, the provisions of this Order shall terminate as to each Respondent when Respondent makes its payment pursuant to Section X (Payment of Response Costs), but in no event earlier than the Effective Date of this Order.

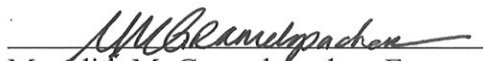
THE UNDERSIGNED PARTIES enter into this Order in the matter of Four County Landfill Site.

FOR THE STATE OF INDIANA



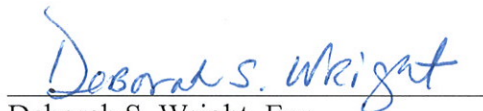
Bruce Oertel, Chief  
Remediation Services Branch  
Office of Land Quality  
Indiana Department of Environmental Management

Date: 6/27/06



Meredith M. Gramelspacher, Esq.  
Office of Legal Counsel  
Indiana Department of Environmental Management

Date: 6/23/06



Deborah S. Wright, Esq.  
Office of Legal Counsel  
Indiana Department of Environmental Management

Date: 6/23/06

Approved and adopted by the Indiana Department of Environmental Management this \_\_\_\_ day  
of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Thomas W. Easterly, Commissioner

The Undersigned Party enters into this Order in the matter of the Four County Landfill Site.

FOR THE RESPONDENT

\_\_\_\_\_  
RESPONDENT [PLEASE TYPE]

BY:\_\_\_\_\_

PRINT NAME:\_\_\_\_\_

TITLE:\_\_\_\_\_

DATE:\_\_\_\_\_

## **APPENDIX A**

Direct Generators – Volumetric Share & Settlement Offer



## **APPENDIX B**

Chem-Met Generators -- Volumetric Share & Settlement Offer

## **APPENDIX C**

Brokers & Transporters – Volumetric Share & Settlement Offer

**APPENDIX D**

Four County Landfill Site OU2 Trust Agreement

## **APPENDIX E**

### Settling Direct Generators

## **APPENDIX F**

### Settling Chem-Met Generators

## **APPENDIX G**

### Settling Brokers and Transporters